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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 STEPHANIE MCCREA,

11 Petitioner,

12 v.

13 DEBORAH J. WOFFORD,

14 Respondent.

CASE NO. 3:18-cv-05054-RJB-JRC

ORDER LIFTING STAY AND
DENYING MOTION TO AMEND
WITHOUT PREJUDICE

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16 The District Court has referred this action to United States Magistrate Judge J. Richard
17 Creatura. Petitioner Stephanie McCrea filed a federal habeas petition, pursuant to 28 U.S.C. §
18 2254, seeking relief from a state court conviction.

19 Pursuant to Court order, petitioner's proceedings were stayed on July 9, 2018, in order to
20 allow petitioner additional time to exhaust her grounds for relief in state court. Dkt. 15. Petitioner
21 has now filed a motion to lift the stay, indicating the Washington State Supreme Court issued an
22 order terminating review of petitioner's PRP on November 6, 2018. Dkt. 16. Because it appears
23 petitioner has now provided every level of the state courts the opportunity to make a
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1 determination as to petitioner's grounds for relief, the Court finds lifting of the stay is
2 appropriate.

3 Petitioner has also requested she be given leave to file an amended petition, indicating
4 she now has additional case law she wishes to include. Dkt. 17. Petitioner has filed a supplement,
5 arguing the additional information relates back to her original petition and now includes more
6 detailed "citations and corresponding information necessary to further her claim and is in the
7 interest of justice." *Id.* Respondent has not filed opposition to petitioner's request. *See* Dkt.

8 Pursuant to local rule, a party seeking to amend a pleading "must attach a copy of the
9 proposed amended pleading as an exhibit to the motion or stipulation." LCR 15. In addition, "the
10 proposed amended pleading must not incorporate by reference any part of the preceding
11 pleading, including exhibits." *Id.* Here, petitioner has requested leave to amend, but has only
12 included a supplement, rather than a proposed amended petition. Thus, petitioner has not yet
13 filed her motion to amend in accordance with local rules and has not yet properly requested leave
14 to amend her habeas petition. If petitioner intends the information in her motion to be considered
15 along with her habeas petition, she must file a motion to amend and include a proposed amended
16 petition containing *all* the arguments she intends to raise as grounds for habeas relief in a single
17 document.

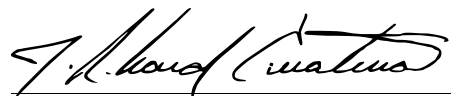
18 Therefore, it is ORDERED:

- 19 1. Petitioner's motion to lift stay (Dkt. 16) is granted. The stay on this proceeding is
20 lifted.
- 21 2. Petitioner's motion to amend (Dkt. 17) is denied without prejudice. Petitioner may
22 refile her motion, but she must include a copy of her proposed amended petition. The
23 amended petition must be legibly rewritten or retyped in its entirety, it should be an
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1 original and not a copy, it should contain the same case number, and *it may not*
2 *incorporate any part of the original petition by reference.* The amended petition will
3 act as a complete substitute for the original petition, and not as a supplement.

- 4 3. Failure by petitioner to file a new motion to amend will result in the Court making a
5 determination as to her current habeas petition (Dkt. 3) beginning on the date for
6 consideration noted below.
- 7 4. The Court notes respondent did not address petitioner's fifth and sixth grounds on
8 their merits in her response because they were unexhausted. Dkt. 7, pp. 5, 7-8. As the
9 stay has been now been lifted and petitioner has indicated she has fully exhausted her
10 state court remedies, respondent is directed to submit a supplemental response to
11 petitioner's habeas petition and any additional state court records on or before
12 January 11, 2019.
- 13 5. The Clerk is directed to note that petitioner's habeas petition will be ready for
14 consideration on February 8, 2019.

15 Dated this 20th day of December, 2018.

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17 J. Richard Creatura
18 United States Magistrate Judge
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